

CLIPPING INTERNACIONAL

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Índice

I. OMC	2
<i>WTO Chief Appoints Three Panelists to Rule On China Complaint Against U.S. Tire Duties</i>	2
<i>Reif Says U.S. Addressing China Problems, More WTO Cases Possible</i>	3
II. NEGOCIAÇÕES REGIONAIS E BILATERAIS	4
<i>Lula llama a Israel a frenar la construcción de colonias</i>	4
<i>U.S. and India Sign New Framework For Cooperation in Trade, Investment</i>	5
<i>U.S.-India Reprocessing Talks Conclude, Face Congressional Objections</i>	6
III. COMÉRCIO E MEIO AMBIENTE	8
<i>Ecuador Plaintiffs Appeal U.S. Court Decision on Arbitration</i>	8



I. OMC

WTO Chief Appoints Three Panelists to Rule On China Complaint Against U.S. Tire Duties

Bureau Of National Affairs

GENEVA—The head of the World Trade Organization has appointed three trade law experts to rule on China's WTO complaint challenging President Obama's decision to impose additional duties on imports of Chinese tires.

In a communication circulated to WTO members March 16, the organization said WTO Director-General Pascal Lamy has appointed former Brazilian Foreign Minister and WTO ambassador Celso Lafer to chair the dispute panel.

Lafer will be assisted by Donald McRae, a former legal adviser and negotiator for the Canadian government and currently professor of law at the University of Ottawa; and Luis Catibayan, director of the Bureau of Import Services with the Philippines Department of Trade and Industry.

Lamy was asked by China March 2 to appoint the panelists after China and the United States were unable to agree on a slate of panelists among themselves. The panel is normally due to issue a ruling before the end of the year.

The WTO panel was established Jan. 19 at the request of China, which charged that the decision to impose the additional duties in the form of a safeguard measure violated global trade rules ([11 ITD, 1/20/10](#)).

September Decision at Issue

President Obama decided Sept. 11 to apply an increased duty on all imports of passenger vehicle and light truck tires from China for a three-year period ([176 ITD, 9/15/09](#)). The increased duty, which took effect on Sept. 26, was set at 35 percent on top of the normal 4 percent duty applicable to passenger vehicle and light truck tires. The additional duty will fall to 30 percent in the second year and 25 percent in the third year.

Obama's decision was taken after the U.S. International Trade Commission June 18 found, in response to a petition brought by the United Steelworkers, that surging imports of Chinese tires had caused or were threatening to cause market disruption to U.S. producers of like or directly competitive products ([116 ITD, 6/19/09](#)). The president took the action pursuant to the China specific safeguard under Section 421 of the 1974 Trade Act—marking the first time a U.S. administration has granted relief under the statute.

China Says Section 421 Violates WTO

Section 421 was added to Trade Act by the U.S.-China Relations Act of 2000 in conjunction with China joining the WTO in December 2001. China's WTO accession agreement allows for the imposition of China-specific safeguard measures over a 12-year transition period ending in December 2013.

Normally, safeguard measures must be applied to a specific imported product regardless of country of origin. In addition, under WTO rules a safeguard can only be applied if the



surging imports are found to cause, or threaten to cause, "serious injury" to the affected domestic industry, a higher standard than the "market disruption" criteria established under the China accession protocol.

China argues that the Section 421 provisions violate WTO rules because they impose a narrower definition of cause of injury than that set out under China's accession agreement. China also contests the ITC findings that imported Chinese tires were entering the market in such increased quantities as to be a significant cause of injury to U.S. domestic tire producers, and that the U.S. producers suffered market disruption as a result of the Chinese imports.

In addition, China argues that the three-year safeguard is longer than necessary to remedy the problems U.S. producers claim they face as a result of increased tire imports from China.

Reif Says U.S. Addressing China Problems, More WTO Cases Possible

The Inside Trade

Office of the U.S. Trade Representative General Counsel Tim Reif this week said that USTR is trying to address "head on" the challenges of the U.S.-China trading relationship, including through the use of dispute settlement procedures under the World Trade Organization if necessary.

With the administration coming under increasing pressure from Congress to take a tough stance against China, Reif maintained that USTR efforts to address the "substance" of any trade problems would also help deal with the "politics" related to the bilateral trade relationship. Reif said that he believes that "when you address the substance of matters, that the politics are addressed as well."

Reif stressed that the administration is "not shy" about tackling difficult problems with China and all U.S. trading partners, such as non-tariff barriers. He pointed to the U.S. WTO challenge against Chinese export restraints as an example of an NTB case, and said the U.S. is looking to help address other non-tariff barriers, although he did not elaborate.

When asked after a March 16 speech at the American Enterprise Institute if USTR would unveil any specific new enforcement action in the context of releasing three reports at the end of the month on foreign trade barriers facing U.S. exporters, Reif said this would not necessarily be the case.

"There's nothing necessary about the relationship [between action and the reports]," he said. "As a matter of fact, the purpose of the reports is to highlight the problems, to identify where we've gotten with them, and then we will see. I suspect that matters that are in those reports are things that you will hear about again. But whether it happens that ... week, I don't know."

The three forthcoming reports are the National Trade Estimate (NTE) report detailing the overall trade barriers faced by U.S. exporters, a report on sanitary and phytosanitary (SPS) barriers, and a report on technical barriers to trade (TBTs).

During his speech, Reif said that USTR determines the priority of trade disputes based on a number of criteria. Perhaps most important among these criteria are the size of the

commercial dispute or the size of the market, and whether the dispute centers on an important legal issue, he said.

The dispute with the European Union over subsidies to Airbus is an example of a dispute where size was a consideration, and the U.S. WTO challenge of a Philippine liquor excise tax is an example of a challenge of a key legal issue, he explained.

Reif explained that the U.S. is primarily engaging China through talks under the Joint Commission on Commerce and Trade and the Strategic and Economic Dialogue.

He said the application of trade remedy laws is an "absolutely vital" part of the U.S.-China trading relationship. As an example, Reif referred to the application in 2007 of countervailing duties against China as a non-market economy, which the U.S. did in the context of a case on coated paper from China. The International Trade Committee later found no injury in the case, so preliminary duties were lifted.

One key aspect of the administration's enforcement focus is the development of an interagency "early warning system" to identify problems "developing in the field," Reif said. Getting to these problems quickly can help the U.S. in solving them "quietly and easily," Reif said.

In addition to USTR, agencies involved in developing the system include the Commerce Department's Commercial Service and the Agriculture Department's Foreign Agriculture Service, he said. Reif said private-sector groups and non-governmental organizations were also involved.

A second aspect of the enforcement initiative is the use of bilateral engagement and the three annual reports on foreign trade barriers, Reif said. These reports shine a light on existing trade barriers and allow the U.S. government to work to resolve these issues without elevating them to litigation, Reif said.

The reports also aid the U.S. in conducting "vigorous bilateral engagement" in both formal and informal meetings, Reif said.

II. NEGOCIAÇÕES REGIONAIS E BILATERAIS

Lula llama a Israel a frenar la construcción de colonias

Clarín.com

En Ramallah, sugirió que los asentamientos dañan la estabilidad en la región.

Con una visita a la ciudad de Ramallah, en Cisjordania, y un discurso mucho más optimista que el de todos los políticos con lo que se entrevistó en sus tres días de visita a Israel y la Autoridad Palestina, el presidente Lula da Silva concluyó ayer la primera parte de su gira por la región, que anoche lo llevó hasta Jordania. Con todo, el brasileño no se ahorró duras críticas a las políticas israelíes.

"El muro debe caer", sentenció en una rueda de prensa en Ramallah, en alusión a la muralla de seguridad que Israel levantó alrededor de Jerusalén y en amplias zonas de Cisjordania, expropiando tierras palestinas para su construcción.

Lula también pidió que Israel levante el bloqueo a Gaza. Y se refirió además a la abierta



oposición a la construcción israelí en zonas de Jerusalén Oriental, ocupada en junio de 1967.

"Los asentamientos deben parar porque la estabilidad de la región es importante para todos", declaró el presidente de Brasil para añadir que sueña con "un Estado palestino que viva en paz con sus hermanos en Oriente Medio".

Lula, quien llegó a pasar una noche en la ciudad de Belén -una actitud que fue apreciada por los habitantes de la ciudad, que no gozaron de similares gestos en los últimos años por parte de otros gobernantes extranjeros- visitó ayer la Iglesia de la Natividad, y luego se trasladó a Ramallah, 15 kms al norte de Jerusalén, donde inauguró la "calle Brasil", y se entrevistó con la cúpula de la Autoridad Palestina, el presidente Mahmud Abbas y el jefe de Gobierno, Salam Fayad. Asimismo, colocó una corona de flores en la tumba del ex líder palestino Yasser Arafat.

En una conferencia de prensa conjunta con Abbas, Lula aseguró -a pesar de haber visitado la región en medio de una ola de violentos enfrentamientos en Jerusalén- que no cree que haya nadie en el mundo más optimista que él respecto a lograr la paz en la región.

"Hay algunos obstáculos y problemas", admitió, pero "los políticos serán capaces de solucionarlos y Brasil dará todo su apoyo para que haya un proceso de paz sólido".

U.S. and India Sign New Framework For Cooperation in Trade, Investment

Bureau Of International Affairs

Following up on a pledge made last year, U.S. Trade Representative Ron Kirk and Indian Minister of Commerce and Industry Anand Sharma March 17 signed a framework agreement on cooperation on trade and investment.

The two officials also announced the launch of a new initiative to integrate U.S. and Indian small and medium-sized businesses into the global supply chain. The new initiative will support the goals of President Obama's National Export Initiative (NEI) as well as recently introduced budget objectives in India. The NEI is aimed at doubling U.S. exports in five years.

Examples of initiatives that could be pursued under the framework include: increasing opportunities for private sector partnerships in infrastructure projects; enhancing intellectual property rights awareness and enforcement; promoting increased bilateral cooperation in the health care, education, information technology, energy and environmental services industries; and creating greater understanding of respective approaches to government procurement, according to a USTR press release.

Beef Up Economic Ties

Last November, Obama and Indian Prime Minister Manmohan Singh agreed to strengthen economic ties between the United States and India (225 ITD, 11/25/09). Kirk and Sharma announced plans to finalize the Framework for Cooperation on Trade and



Investment when they co-chaired the U.S.-India Trade Policy Forum (TPF) meeting in New Delhi in October 2009.

The TPF, which dates back to 2005, is the principal bilateral forum for the two governments to discuss trade and investment issues. The TPF has five focus groups which address agriculture, intellectual property rights, investment, services, and tariff and non-tariff barriers.

Kirk and Sharma also hosted a meeting of a restructured Private Sector Advisory Group to the TPF.

In remarks at the signing ceremony, Kirk characterized the agreement as a manifestation of the shared objective to enhance the bilateral trade relationship. "But it is just the beginning of that process," he added.

"There is almost limitless potential for growth in trade between our two countries and that can contribute to economic recovery and job creation in the United States and continued economic growth in India," Kirk said in a press statement.

In the press statement, Sharma said that the framework will also be used to encourage the development and deployment of clean energy and environmental technologies as well as to support India's infrastructure growth.

Sharma said that the time had come to elevate the partnership between India and the United States to a higher level, looking at strengths and comparative advantages.

Obama will visit India later in the year.

White House Deputy National Security Advisor Michael Froman said March 15 that the success of the World Trade Organization's Doha Round mostly depends on large developing countries like India.

U.S.-India Reprocessing Talks Conclude, Face Congressional Objections

The Inside Trade

The U.S. and India have concluded talks over reprocessing rights for U.S.-origin nuclear fuel and have produced a legal text that is now ready to be initialed, but an announcement of the final agreement has been put on hold due to objections in the U.S. Congress to ambiguous language contained in that final text, sources said today (March 17).

Within the last 10 days, some members of Congress have told the State Department that the reprocessing agreement must explicitly stipulate that India's right to reprocess U.S.-origin fuel will cease if India violates safeguards or tests a nuclear weapon, which the text does not make clear, these sources said.

The State Department wants to find a way to quiet these congressional objections before initialing the text, but negotiators on both sides are confident that the text is final and will not be changed regardless of these objections, sources said.



The reprocessing agreement -- which aims to establish a framework under which India can reprocess U.S.-origin fuel in a dedicated facility -- has been a key hurdle to finalizing the U.S.-India Civil Nuclear Cooperation Agreement.

Its finalization is holding up real market access for companies, as Indian officials have in the past conditioned removing other hurdles to contracts with U.S. nuclear suppliers on completion of the talks.

India has agreed in principle for General Electric and Westinghouse to develop two nuclear sites in India, but formal contracts face obstacles related to export licenses and liability for nuclear accidents. Indian officials have in the past conditioned movement on these obstacles to completion of the reprocessing talks. Under U.S. law, these talks must be finished by August.

The reprocessing discussions involve the safeguards to be placed on a dedicated Indian reprocessing facility meant to keep the operation separated from India's nuclear weapons program.

Once concluded, Congress could still reject the agreement, but would have to muster two-thirds super-majority votes in both the House and Senate to override a presidential veto of a disapproval resolution. Despite this seemingly small congressional leverage, members of Congress were able to get the State Department to renegotiate the U.S.-United Arab Emirates Civil Nuclear Cooperation Agreement last year.

The revelations about the talks come as the Indian government ran into hot water in the Parliament this week when it attempted to introduce a bill governing civil liability for nuclear damage.

The bill, which Indian officials have linked to the reprocessing talks being completed, would set the stage for India to join multilateral conventions that govern payments to victims of nuclear accidents and would set up a nuclear claims commissioner to adjudicate claims.

[According to a copy of the bill obtained by Inside U.S. Trade](#), the bill would limit the liability of plant operators to about \$110 million per accident, a figure opposition parties in India have decried this week as too low.

The Indian government had planned to introduce a long-delayed bill in the Lok Sabha, the lower house of Parliament, on March 15 but delayed in the face of stiffened opposition, according to a transcript of the debate.

During the debate, opposition member M.B. Rajesh said that recent statements by U.S. Assistant Secretary of State Robert Blake linking reprocessing and the liability bill showed that the government was presenting the bill in order to please the United States. Sources said that the government would likely wait until April to introduce the bill and would try to get the opposition Bharatiya Janata Party (BJP) to support the bill, for which in the past it has signaled support.

The bill is a prerequisite for U.S. participation in the building of reactors in India because U.S. operators such as General Electric and Westinghouse will not assume the risk of unlimited liability there. Passage was the top recommendation on commercial nuclear issues by this week's private-sector U.S.-India High Technology Cooperation Group.



India remains uneasy about reporting requirements linked to U.S. export controls and the group asked the U.S. to “de-mystify” post-license checks “which in no way resemble an inspection process.” Another obstacle to U.S. nuclear trade are Indian objections to the assurances they must make to the Department of Energy in order for Energy to issue Part 810 license that allow Indian firms to cooperate with U.S. firms on nuclear technology.

Despite the uncertainty, Deputy National Security Adviser Michael Froman said March 15 that he has “no doubt” that the U.S. and India will soon be celebrating the first U.S. nuclear reactor in India in four decades.

III. COMÉRCIO E MEIO AMBIENTE

Ecuador Plaintiffs Appeal U.S. Court Decision on Arbitration

Amazon Defense Coallition

ANEXO 1 - Rainforest Residents Seek to Enforce Chevron’s Promises to U.S. Courts That the Company Would Litigate Case in Ecuador